0.9/32.

P16

1937.

Department of Revenue

OFFICE Board of Revenue

STATION Depositories.

No. 887

Dated 15-3-37.

(S. 296/37.

Urgent

11-Feb 1951

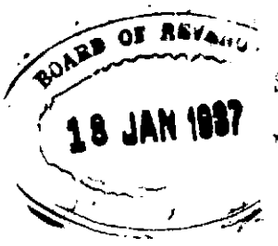
11-Feb 16/3/54

Pages in the file 4

(SUBJECT.)

Ref. C. No. A6--5665-36.

AP 01
B296



South Kanara Collector's Office,
Mangalore, dated 15th January 1937.

From

A. D. Crombie, Esq, C.I.E. I.C.S.,
Collector of South Kanara.

To

The Secretary to the
Board of Revenue,
M a d r a s.

S i r,

Encroachment--land--Mangalore Taluk--Panambur village--S. No. 42/8B Portion--eviction order--restoration--recommended.

I submit herewith the records of my office D. Dis. 3132/36, dated 22nd July 1936 in which the eviction order passed by the Revenue Divisional Officer, Mangalore, for the removal of the encroachment in S. No. 42/8B of Panambur village was cancelled by Mr. Humayun and recommend that the eviction order may be restored. The previous history of this case and the circumstances that led to the passing and the cancellation of the eviction order are briefly as follows:-

S. No. 42/8B of Panambur village measuring 20 cents is the plot concerned in this case. It is a portion of land registered as "Poramboke Road and Military Camping ground". In Collector's order Pef. C.C. 6664-24-A4, dated 29th December 1926, it was selected for the permanent location of T. S. No. 50 of Panambur village and was transferred to Liquor-shop Poramboke in Mangalore Revenue Divisional Officer's N. Dis. C. No. 919-27-2, dated 7th March 1927. Sankappa who was the renter of the toddy shop No. 50 of Panambur village for

1933-34 constructed a tiled building on the portion marked as S. No. 42/8B2 in the sketch when he was the renter of the shop. p5 (F) He was not the renter for the succeeding year, but the new renter Venkappa made use of the same building that year with Sankappa's consent. The building could not, therefore, be treated as an encroachment. For the lease 1935-36, Venkappa again bid for the shop and became the renter. But on account of some disagreement between him and the old renter, he vacated the old building on S. No. 42/8B2 and constructed a new building of his own within the Poramboke area, marked as 'A' in the sketch, and the old building then became an — do — encroachment. Encroachment proceedings were instituted in respect of Sankappa's building on S. No. 42/8B2. The encroacher prayed for the assignment of the site of the building to him or in the alternative the retention of the building, on which he had spent about Rs.500/-, till the lease 1936-37 when he hoped to become the T. S. renter again. The Tahsildar solicited the Revenue Divisional Officer's orders in the matter, but the Revenue Divisional Officer directed that the encroachment should be removed on the ground that unauthorised occupation of Toddy shop Poramboke by private individuals might affect the sales. The Revenue Divisional Officer issued eviction order and Sankappa appealed to the Collector against the Revenue Divisional Officer's order of eviction. In this office D. Dis. 3132/36, dated 22nd July 1936, Mr. Humayun cancelled the order of eviction and directed the Tahsildar to submit proposals for the transfer of the Toddy shop Poramboke to Assessed Waste.

p15-16 (F) p25 (F) p19 (A) p17 (A)

2. Venkappa who is the present renter of the Toddy shop has applied for the assignment of the site marked 'A' in the sketch together with the surrounding land measuring about 10 cents on the ground that he has also built a substantial building on it and that ~~any~~ an invidious distinction cannot be made in his case. The encroacher Sankappa has also put in a petition stating that S. No. 42/8B2 will not be sufficient for him and that about 15 cents of land including S. Nos. 42/8B2 and 8B1 may be assigned to him for sinking a well and constructing a bathshed etc.

p57 (F) p5 (F) p55 (F)

3. The Excise authorities were consulted in the matter. Though the site notified for the shop for the current lease is "any un-

objectionable site in the village", the Excise Sub Inspector reports that the plot in question is the best site available and that it has been keeping up the rentals of the shop year after year. He also reports that the renter Venkappa is put to much inconvenience on account of the existence of the unoccupied building of Sankappa on S. No. 42/8B2, as wayfarers and rowdies take shelter in the building and create nuisance at nights. The Excise Inspector does not recommend the assignment of any portion of S. No. 42/8B.

4. The land is a portion of "Military camping ground". It is undesirable to assign any portion of it. Further, renters of liquorshops have clearly to understand that, if they erect substantial buildings on a poramboke site chosen for a liquorshop, they do so at their own risk and if they fail to get the shop in succeeding years, they are liable to eviction. The absurdity of the situation is clearly shown in this case in which both the former renter and the present renter apply for the sites on which they have erected shops. I am opposed to the assignment and recommend that Mr.Humayun's order dated 22nd July 1936 cancelling the eviction may be set aside and the eviction order for the removal of the encroachment in S. No. 42/8B2 restored.

5. Taluk file T. C. 19/45 containing the eviction order dated 22nd February 1936, Dis. No. 19R/Rev. 27 and the Excise Sub Inspector's report are enclosed.

Your obedient servant,

Collector.

Encroachment - Land - (S. Kanara) - Mangalore Taluk - Panambur Vge. - S. No. 42/8 B (part) - Eviction order Restoration - order passed.

Read:-

Letter from the Collr. of S. Kanara Ref. C. No. A6-5665/36 dt 15-1-37 9

Resolⁿ (Misc.) 887 dt 15-3-37.

S. No. 42/8 B,

measuring 20 cents, of Panambur Vge., Mangalore TK was registered as "Porambóke Road & Military Camping ground." It was selected for the permanent location of toddy shop in ~~Panambur Vge~~, and was transferred to "Liquor Shop porambóke" in Mangalore R. D. O's Dio. C. No. 919/27-2 dt 7-3-1927.

In 1933-34 Sankappa was the lessee of the toddy shop in that village. He, ~~first lessee~~ renter constructed a tiled building on the site in question. In the succeeding year Venkappa became the renter and he made use of the same building that year.

with Sankappas Consent As the building was used for housing the toddy Shop it was not treated as an encroachment. In 1935-36 Venkappa again became the renter But on account of some disagreement between him and the old renter, Venkappa vacated the old building and Constructed a new building of his own within the said survey field. the encroached area. The old building Constructed by Sankappa was therefore held to be an encroachment in respect of which encroachment proceedings were instituted. The encroacher prayed for the assignment of the site of the building to him or in the alternative the retention of the building on which he had spent about Rs. 500/- till the toddy shop for the year 1936-37 when he hoped to become the renter again. When the matter was referred to the R.D.O for orders, he the latter ordered the eviction of the building

on the ground that unauthorised occupation of toddy shop paramboke by private individuals might affect the sales. Sankappa appealed to the Collr. against the R.D.C's order of eviction. His R/D. dis. 3102/34 dt 22-1-36 the Collector R.D.Cs Cancelled the order of eviction & directed the Tahildar to submit proposals for the transfer of the toddy shop paramboke to assessed waste.

P7 (A)

Subsequently, Sankappa, the present Petitioner also applied for the assignment of an extent of 10 cents on the same paramboke on the ground that he had built a substantial building on it. Sankappa also put in a petition for the assignment of 15 cents of land in the same site. The Excise authorities were consulted in the matter and they were opposed to the assignment of any portion of S.No. 42/8B. P.T.C. ~~The land in question being~~

8 According to the instructions in Rf. 3272 Mis
d 26.9.34 the Govt are expected only to provide sites
for toddy shops. The renter of each year will have to take it on lease after the
shop is taken. Only the construction
of temporary buildings is therefore
contemplated. If the renter of a
particular year constructs substantial
buildings he did so at his own risk.
Further the site now in question forms
part of
~~a portion of~~ " Military Camping
ground ~~it is undesirable~~
issued in Rf. 71.8 Mis d 28.2.31 the orders of the
local Govt will be necessary for the
assignment of any portion of it
~~In the~~ The orders issued
by the Collr in his L.R. No. 3132/36 p 7 of (A)
d 22-7-36 Cancelling the R.O.C's
could not therefore be upheld and
Order of erection ~~are therefore~~
are accordingly
Cancelled. The Collr is
requested to ~~see~~ take steps
for the removal of the building
erected by Sankappa on S.No. 42/8A
of the Board observes
from the Connected records
~~submitted by the Collector that the~~
present renter Venkappa is living
with his family on the site
now ~~being~~ used as the toddy shop.
The Collr is requested to warn
him that the unauthorised Construction
of a substantial building on a
porambake site chosen for a liquor
shop will not confer on him
a claim to the site & that it
will be liable to erection if when
the ~~is not~~ ceases to be the renter for of
the ~~next~~ year the Toddy Shop
3/- The Board ~~is~~ of the
opinion that
observes from the Connected

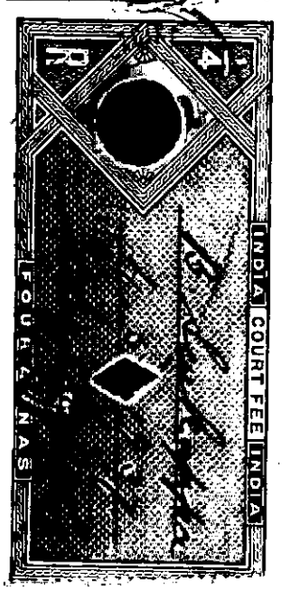
~~records that~~ the transfer of a portion of the 'Military Camping-ground' to 'Liquor Shop premises' should not have been made without the sanction of the Govt. & that nothing is gained by the alteration given registry ~~in~~ It accordingly directs the Collr. to cancel its registry as liquor shop premises. It has, however, no objection to permit its use for the purpose of keeping a liquor shop.

(A.C.)

13/3/37.

15-3-37

To the Collr. of S. Kanara
with Taluk file E.C. 19/45 (F)
Dis. No. 19 R/Rev. 27 (C)
Excise Sub. Inspr. Puttur. (T) returned
Collrs. D. dis. 3132/36, 22-7-36.



RP25 8.6.5.37
Transferred to Board with 1 B295
40-12-0. Rampachandrappa
6-5-37

Q1

BOARD OF REVENUE
To
10 MAY 1937
BOARD OF REVENUE
8-MAY 1937

lore,

OFFICE OF THE COMMISSIONER
8-MAY 1937

Stamp 9/-
1975
19/5

The Hon'ble The Board of Revenue,

Madras.

The appeal petition submitted by R. Sankappa, nephew of Ramappa Pujary, Attavar Village, Mangalore.

Most Respectfully Sheweth:-

That your appellant is an Abkary Vendor of many years standing and is one of the prominent vendors of Mangalore Town in the district of South Kanara and has taken up this time about 8 of the large and important shops.

That about 8 years ago he sought permission to build a toddy shop in S.No. 42-8B (portion) of Permanbur Village, Mangalore Taluk and the sight having been approved of permission was granted to appellant to construct the toddy shop building.

That he was mainly responsible to the increase of annual kist of the toddy shop of that place from Rs. 70/- to Rs. 180/-, and but for the existence of his toddy shop building there and the raising of the bid every time by the appellant the Excise department stood to loose considerably.

vide para 1 of the letter at Pg 1/ (2)

That the Revenue Divisional Officer of Mangalore Sub-Division in his order No.Dis. 921-36 dated 22-2-1936 directed the eviction of the building, the Collector of South Kanara, after a thorough enquiry in his proceedings D.Dis.3132-36 dated 22nd. July 1936 allowed the appeal of petitioner cancelling the order of eviction passed by the Revenue Divisional Officer.

ibid

That this appellant is extremely grieved to learn from the Tahsildar of Mangalore, in his Ref: E.C.No. 19-15 intimating that the Hon'ble the Board of Revenue in its proceedings - Mis.No. 887, dated 15-3-1937, has restored the eviction order passed by the Revenue Divisional Officer, Mangalore. pp 5-5 (67)

That your appellant is very much grieved to see that the Revenue Board did not give an opportunity to appellant to place his case before the Board for its consideration before passing the order now appealed against.

That should he be evicted, the appellant would would loose very much and the very fact that he is not allowed to retain the building will result in bringing down the revenue of the Excise department, while the eviction will serve no good or useful purpose.

That in consideration of all these facts, the Hon'ble the Board of Revenue may be pleased on a kind and merciful reconsideration to restore the order of the Collector of South Kanara in modification of the orders now appealed and permit appellant to retain the building and pending disposal of this petition, the Board may be graciously pleased to stay further proceedings.

For which act of mercy, appellant will ever feel grateful.

Appellant.

Endorsement No

Returned to the Board of Revenue Land Revenue for disposal. This petition is for reconsideration of an order passed by the Board in the Land Revenue Department.

To,
Board L.R

Board of Revenue
Separate Revenue J.

Asst. Secretary

J.F.H

C.F. 16.

DRAFT FOR APPROVAL.

	Date.	Initials.
When received for fair copying ..		
When copied ..		
When examined..		
When signed		
When despatched	7 MAY 1937	

SUBJECT :— Encroachment - land - (S. Kanara). Mangalore Tk - Panambur vge - S. no 42/8B - Eviction - Reconsideration - Sankappa - B — Review petition - Rejected -

READ AGAIN BB 887 Mis, dated 15.3.37 — 19 Q. to Govt. order

" " _____ " _____ 19_____.

READ ALSO :—

pl cf No. B.2155 From the B. Sankappa, Petitioner, dated 1-5-1937-R

" _____ " _____ " _____ " _____ 19_____.

" _____ " _____ " _____ " _____ 19_____.

Govt Order Mis. No. B.2155/37, dated 21.5.1937.

~~Resolution Rout.~~

~~BS Board Consent~~

~~Eviction~~ -

No review petition lies to the Board in the matter. The petition is rejected.

Issue
SY
21/5

KN
20/5
SY
20/5/37

KN
21.5.37

To Mr. B. Sankappa, nephew of Narappa Pujary, Attavar vge, Mangalore Tk

Copy to the Collector S. Kanara

Note file.

Encroachment - Land - (S. Kanara) - Mangalore Tk - Panambur Vge - S.No. 42/8B - Eviction - Eviction Order - Restoration.

OB. 296/37 pp 1-3 cf.

To A.S. (LR)

Pl. see the Coll's letter at pp 1-3 cf.

2. According to the instructions issued in Rb. 3372 Mis Dy 26.9.34. the Govts are expected only to provide sites for toddy shops. The renter of each year will have to take it on lease after the shop is taken. If the renter of a particular year viz Sankappa, constructed a building of a permanent nature on the site he did so at his own risk. The reasons for which the previous Coll Mr. Humayun set aside the R.D.'s order of eviction and directed the submission of proposals for transfer to aygn are not clear from the Coll's file

pp 37-38 cf (N)

(M) word illegible

p 3 N.F. (A)

The assigned land in question is "Military Camping ground" and it could not be assigned without the orders of the local Govt. - Vide Rb. 718 Mis Dy 28-2-31. This point does not appear to have been considered either at the time of the transfer of the plot to liquor shop proprietor or at the time when the Coll ordered the transfer to aygn with a view to its assignment. The actual

(J)

actual assignment has not yet been made. It is the Coll^r's order cancelling the order R.D.O's. order of eviction that has now to be Cancelled. The Coll^r has come up to the Board for orders apparently for the reason that he cannot reverse the orders of his predecessor. It may be set aside and the Coll^r directed to take action for the eviction of this Sankappa

p 7 of (A)

W.S. 26.2.37

Affd

In this connection it may also be noted that the present renter, Venkappa, has also applied for the assignment of this portion of the plot on which he has constructed his shop. From the Excise, Sub. Inspector's report it is seen that he is living with his family on the site. The Coll^r may be requested to warn him that the construction of a pucca building for the shop will not give him a claim for the site and that he will have to vacate [illegible] for the next year.

p 6 of (T)

W.S. 26.2.37

3. In this connection it is submitted that the transfer of a portion of the Military Camping ground to liquor shop for an toke should have been done with the sanction of the local Govt. as the transfer amounts to a permanent reduction in the extent of the Camping ground. If the Board agrees the Coll^r will be requested to take action with reg. to the B/P at (T) and to submit the particulars referred to therein for orders

W.S. 26 2 37

(J) Contemplates these particulars when land is to be assigned. In this case the land is not to be assigned. Nothing is gained by calling the land "Liquor shop premises". The simplest course will be

AJS

Sd 25/2/37

to cancel its registry as such. Its use for the purpose of booking a longer step may be continued.

Affd
27.2.37.
M.1

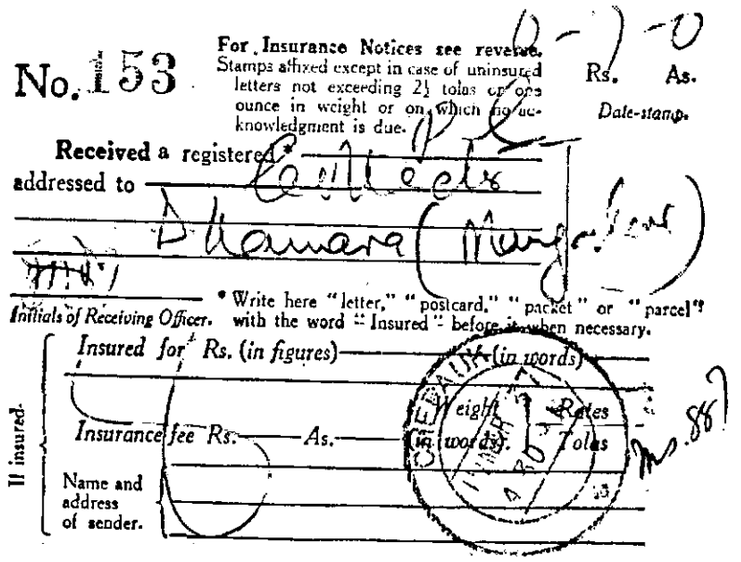
Read
3/3

AS(L.R.)

To Asst. Secy.

Draft submitted.

15/3/37


No. 153
For Insurance Notices see reverse.
Stamps affixed except in case of uninsured letters not exceeding 2½ tolas or one ounce in weight or on which no acknowledgment is due.
Rs. As.
Date-stamp.
Received a registered
addressed to
Initials of Receiving Officer.
* Write here "letter," "postcard," "packet" or "parcel" with the word "Insured" before it when necessary.
If insured.
Insured for Rs. (in figures)
(in words)
Insurance fee Rs. As.
Weight
(in words) Rates
Tolas
Name and address of sender.

M1
A.J.S.
A.S (HR)

No. file
5

Encroachment - land - (S. Kanara) -
Mangalore TK - Paramboor vge - S. no. 42/8B.
Eviction - Reconsideration of B.P. Mis no. 887
dated 15-3-37.

pp 1-2 of

B. 2155.

To Asst Secy:

Please see the petition at pp 1-2 of

p1 of (C4)

2. S. no. 42/8B of Paramboor village
Mangalore TK, was originally registered as
"Paramboke Road & Military Camping ground
It was transferred to "liquor shop paramboke"
by the R.D.O. Mangalore, in 1927, as it was
selected for the permanent location of toddy
shops. The petitioner, who was the renter of

pp 1-2 of (C4)

the toddy shop in the village in 1933-34,
erected a tiled building on the site. In the

p2 of (C4)

succeeding year another individual, Venkappa,
became the renter and he made use of the
building that year with the petitioner's
consent. The occupation of the site was
not treated as an encroachment, as the
building was used as a toddy shop. But
on account of some disagreement
between the petitioner & Venkappa, the
latter vacated the building and
constructed a building of his own within
the land itself. Thereupon, the old building
constructed by the petitioner was treated as

(by the R.O.D.)

encroachment and was ordered to be evicted on p2 of (C4)
the ground that unauthorised occupation
of the site by strangers by private individuals
would might affect the sales.

On an appeal presented by the p2 of (C4)
petitioner the Collr cancelled the R.O.'s order
of eviction & directed the Taluk to submit
proposals for the transfer of the site to assessee
waste. Thereupon Venkappa also applied for the para 2 @ p 2 of (C4)
assignment of 10 cents of the site in question
on the ground that he had built a
substantial house on it. The petitioner
also applied for the assignment of 15 cents of
the same site. The Excise authorities were opposed para 3 @ pp 2-3 of (C4)
to the assignment of any portion of the
land. The Collr after hearing them, pp 1-3 of (C4)
reported the facts to the
Board in January last and recommended p 3 of (C4)
that the previous Collr's order cancelling the
eviction order might be set aside and that
the eviction order might be restored. The
Board passed order accordingly vide proc.
No. 88) of 15-3-37. The petitioner now pp 5-9 of (C)
prays for a reconsideration of these orders. pp 1-2 of

3) In view of the facts of the case
stated above, there appear to be no ground
for reconsidering the Board's order quoted above.
Further the Board cannot review its orders.
The petition may be dismissed.

4) The question of staying the eviction p 2 of

p 2 c/- pending the disposal of this petition, prayed for by the petitioner does not arise

~~For order~~. 57. It is noted that although KA 19/5. the petn is stated to be an appeal it should be held to be a review petn for the purpose of calculating stamp duty. It should therefore have been stamped with C.F. labels to the value of Rs 1-8-0, ~~and otherwise~~ Only stamps to the value of annas 12 have been affixed. This is a matter in which no review lies in the Civil Courts. It is for order whether the petn should be asked to make up the deficit before final orders are communicated to him

Unnecessary. When there is no review, there is no need to treat the petn as review petn WS 20.5.37

SLS 19/5/37.

The Board's order was in the exercise of its powers of revision under § 10 of the Mad. Enc. Act. It is final. It cant be reviewed — B.So 172 para 7(i) Proviso (2) — The petn may be rejected.

WS 20.5.37

AJS 20.5.37

I. 636 : Vol II (Mad) Code

I. 1941 : Vol IV

A.S.(KA)

To Asst Secy

Draft & Endrs submitted.

2. Mes & Endrs may be stitched with Bk. Mes No. 887 of 15.3.37 after issue.

WS 20/5

SLS 20.5.37

WS 21/5/37